

## § 1952.116

the finally approved plan, and shall be subject to Federal enforcement. Where enforcement jurisdiction is shared between Federal and State authorities for a particular area, project, or facility, in the interest of administrative practicability, Federal jurisdiction may be assumed over the entire project or facility. In either of the two aforementioned circumstances, Federal enforcement may be exercised immediately upon agreement between Federal and State OSHA.

(c) Federal authority under provisions of the Act not listed in section 18(e) is unaffected by final approval of the plan. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the exercise of any right afforded to the employee by the Act, although such complaints may be referred to the State for investigation. The Assistant Secretary also retains his authority under section 6 of the Act to promulgate, modify or revoke occupational safety and health standards which address the working conditions of all employees, including those in States which have received an affirmative 18(e) determination, although such standards may not be Federally applied. In the event that the State's 18(e) status is subsequently withdrawn and Federal authority reinstated, all Federal standards, including any standards promulgated or modified during the 18(e) period, would be Federally enforceable in that State.

(d) As required by section 18(f) of the Act, OSHA will continue to monitor the operations of the Utah State program to assure that the provisions of the State plan are substantially complied with and that the program remains at least as effective as the Federal program. Failure by the State to comply with its obligations may result in the revocation of the final determination under section 18(e), resumption of Federal enforcement and/or proceedings for withdrawal of plan approval.

[50 FR 28780, July 16, 1985, as amended at 62 FR 2560, Jan. 17, 1997; 65 FR 36620, June 9, 2000]

## 29 CFR Ch. XVII (7-1-01 Edition)

### § 1952.116 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations:

Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N3700, Washington, DC 20210;

Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, 1999 Broadway Suite 1690, Denver, Colorado 80202-5716; and

Office of the Commissioner, Labor Commission of Utah, 160 East 300 South, 3rd Floor, P.O. Box 146650, Salt Lake City, Utah 84114-6650.

[65 FR 36620, June 9, 2000]

### § 1952.117 Changes to approved plans.

In accordance with part 1953 of this chapter, the following Utah plan changes were approved by the Assistant Secretary:

(a) *Legislation.* (1) The State submitted an amendment to the Utah Administrative Rulemaking Act (chapter 46a, title 63, Utah Code Annotated 1953), which became effective on April 29, 1985, which provides for rulemaking procedures similar to those of Federal OSHA in sections pertaining to expansion of definitions; availability of proposed rule to the public; a set time period allowed for public comment; the time period provided for a requested hearing to be held; and, provisions for determining the validity or applicability of a rule in an action for declaratory judgment. The Assistant Secretary approved the amendment on October 24, 1988.

(2) The State submitted amendments to its Occupational Safety and Health Act (chapter 69, Utah Code Annotated 1953), which became effective on April 29, 1985, which provide for seeking administrative warrants, clarify review procedures for the hearing examiner, provide for issuing a permanent standard no later than 120 days after publication of an emergency standard, and remove inconsistent requirements for adopting rules and regulations. The Assistant Secretary approved the amendments on October 24, 1988.

(3) On March 29, 1994, the Assistant Secretary approved Utah's revised statutory penalty levels which are the same as the revised Federal penalty levels contained in section 17 of the Act as amended on November 5, 1990.

(b) *The Voluntary Protection Program.* On December 30, 1993, the Assistant Secretary approved Utah's plan supplement, which is generally identical to the Federal Voluntary Protection Program.

(c) *Temporary labor camps/field sanitation.* Effective February 3, 1997, the Assistant Secretary approved Utah's plan amendment, dated July 31, 1996, relinquishing coverage for the issues of field sanitation (29 CFR 1928.110) and temporary labor camps (29 CFR 1910.142) in agriculture (except for agricultural temporary labor camps associated with egg, poultry or red meat production, or the post-harvest processing of agricultural or horticultural commodities.) The Employment Standards Administration, U.S. Department of Labor, has assumed responsibility for enforcement of these Federal OSHA standards in agriculture in Utah pursuant to Secretary of Labor's Order 5-96, dated December 27, 1996.

[53 FR 43689, Oct. 28, 1988, as amended at 59 FR 2295, Jan. 14, 1994; 59 FR 14555, Mar. 29, 1994; 62 FR 2561, Jan. 17, 1997]

## Subpart F—Washington

SOURCE: 38 FR 2422, Jan. 26, 1973, unless otherwise noted.

### § 1952.120 Description of the plan.

(a)(1) The plan identifies the Department of Labor and Industries as the State agency designated to administer the plan throughout the State. It adopts the definition of occupational safety and health issues expressed in § 1902.2(c)(1) of this chapter. The plan contains a standards comparison of existing and proposed State standards with Federal standards. All standards, except those found in 29 CFR parts 1915, 1916, 1917, and 1918 (ship repairing, shipbuilding, shipbreaking and longshoring) will be adopted and enforced after public hearings within 1 year after the standards are found to be at least as effective by the Secretary of Labor.

(2) The plan provides a description of personnel employed under a merit system; the coverage of employees of political subdivisions, procedures for the development and promulgation of standards, including standards for protection of employees against new and unforeseen hazards; and procedures for prompt restraint or elimination of imminent danger situations.

(b)(1) The plan includes proposed draft legislation to be considered by the Washington Legislature during its 1973 legislative session creating a new chapter in title 49, Revised Code of Washington and repealing existing provisions, to bring it into conformity with the requirements of part 1902. Under the proposed legislation the Department of Labor and Industries will have full authority to enforce and administer laws respecting safety and health of employees in all workplaces of the State. The legislation further proposes to bring the State into conformity in areas such as variances and protection of employees from hazards.

(2) The legislation is also intended to insure inspections in response to complaints; give employer and employee representatives an opportunity to accompany inspectors in order to aid inspections; notification of employees or their representatives when no compliance action is taken as a result of alleged violations, including informal review; notification of employees of their protections and obligations; protection of employees against discharge or discrimination in terms and conditions of employment; adequate safeguards to protect trade secrets; provision for prompt notice to employers and employees of alleged violations of standards and abatement requirements; effective sanctions against employers for violations of standards and orders; employer right of review to the Board of Industrial Insurance Appeals and then to the courts, and employee participation in review proceedings. The plan also proposes to develop a program to encourage voluntary compliance by employers and employees, including provision for on-site consultations.

(c) The plan includes a statement of the Governor's support for the legislation and a legal opinion from the State attorney general that the legislation